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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

Russell G. Greer, et al. Plaintiffs, v. Gary R. Herbert, et al. Defendants.	SALT LAKE COUNTY DEFENDANTS' REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS PLAINTIFFS' SUPPLEMENTAL COMPLAINT Case No. 2:16-cv-01067 Magistrate Judge: Dustin B. Pead
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Defendants, Salt Lake County District Attorney Sim Gill, Salt Lake County Mayor Ben McAdams, and Rolen Yoshinaga, Director of Salt Lake County Planning and Development Services (collectively "County Defendants"), by and through their undersigned counsel, submit this Reply in Support of Salt Lake County's Motion to Dismiss Plaintiff's Supplemental Complaint for Declaratory and Injunctive Relief (Doc. 60) ("County's Motion to Dismiss).

The County filed its Motion to Dismiss on October 3, 2017. (Doc. 60). Plaintiff had twenty-eight days—until October 31, 2017—to respond to the County's Motion to Dismiss. DUCivR 7-1(b)(3)(A). Plaintiff did not file an opposition to the County's Motion to Dismiss and the time for doing so has now passed. Thus, the County's Motion to Dismiss should be

considered unopposed and the Motion granted for the reasons articulated in the County’s motion papers (Doc. 60). *See* DUCivR 7-1(d) (“[f]ailure to respond timely to a motion may result in the court’s granting the motion without further notice”); *Masero v. Mortgage Elec. Registration Sys.*, No. 1:10-CV-132 TS, 2010 U.S. Dist. LEXIS 128564, *1 (D. Utah Dec. 2, 2010) (granting motion to dismiss as unopposed pursuant to DUCivR 7-1(d)).

Moreover, Greer’s “Opposition Motion re State Defendants’ Motion to Dismiss and Memorandum in Support” (Doc. 61) (“Opposition to the State’s Motion”) cannot be considered an opposition to the County’s Motion to Dismiss. First, Plaintiff’s Opposition to the State’s Motion does not even reference “Salt Lake County,” “Sim,” “Gill,” “Ben,” “McAdams,” “Rolen,” or “Yoshinaga”—terms that would identify the County Defendants—but repeatedly references the “State” in an indication the opposition is not directed toward the County Defendants.¹

Second, the Notice of Electronic Filing for Plaintiff’s Opposition to the State’s Motion specifically states that the document is an opposition to “[57],” which is the docket entry number for the State Defendants’ Motion to Dismiss Supplemental Complaint. It does not mention Document 60, which is the County’s Motion to Dismiss.

Finally, the Plaintiff’s Opposition to the State’s Motion does not address the substance of the County’s Motion to Dismiss, including but not limited to, the County’s arguments that Plaintiff lacks standing to bring his claims against the County Defendants and that his claims against the County Defendants are not ripe.

¹ On Page 24 of 38, Plaintiff does include the term “County of Salt Lake,” but that is simply a mistaken reference to a 2012 study conducted by the *City of South Salt Lake* to evaluate the secondary effects of sexually oriented businesses. Opposition to State’s Motion (Doc. 61). It is not a reference to Salt Lake County.

Consequently, the County Defendants respectfully request that the Court grant their Motion to Dismiss Plaintiff's Supplemental Complaint (Doc. 60) as unopposed and for the reasons set forth in their motion and memorandum. *See* DUCivR 7-1(d). Moreover, because the County's Motion to Dismiss is unopposed, there is no good cause to hold oral argument and the motion should be decided on the basis of the written memoranda. *See* DUCivR 7-1(f).

Respectfully submitted this 7th day of November 2017

SIM GILL
Salt Lake County District Attorney

/s/ David M. Quealy
DAVID M. QUEALY
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Deputy District Attorney
*Attorney for Defendants Sim Gill, Ben McAdams
and Rolen Yoshinaga*

CERTIFICATE OF SERVICE

I certify that on this 7th day of November, 2017 a true and correct copy of the foregoing
SALT LAKE COUNTY DEFENDANTS' REPLY MEMORANDUM IN SUPPORT OF
MOTION TO DISMISS PLAINTIFFS' SUPPLEMENTAL COMPLAINT was electronically
filed with the Clerk of Court using the CM/ECF system, which sent notice to the following:

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The following individuals received service via first class mail, postage prepaid, addressed to:

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